United States Army, or Howard Abbot, an engineer in the plant section of the production division of the Ordnance Department, that the said David A. Wright would receive a contract, or contracts, for the manufacture of heavy-duty lathes that would absorb such costs or expenditures, notwithstanding such Ordnance Department projects may have been contingent upon the continuance of the war and may have been abandoned because of the signing of the armistice of November 11, 1918, and notwithstanding section 3744 of the Revised Statutes: Provided, That the Court of Claims shall be of opinion that the said David A. Wright made or incurred such expenditures in reliance in good faith upon the belief that Major Westcott or Mr. Abbott possessed the authority to make such promise or assurance on behalf of the Ordnance Department and that he was justified in doing so under the circumstances."

Wherefore, plaintiff prays this Court to reinstate, reopen and rehear this case and upon the pleadings, evidence, and other proceedings in this cause and such other proceedings, [fol. 6] if any, as this Court may deem necessary or proper, to readjudicate the same in accordance with said Act of Congress.

David A. Wright, Plaintiff, by Ashby Williams, 815 Fifteenth Street, N. W., Washington, D. C., Attorney for Plaintiff. James J. Lenihan, 516 Investment Building, Washington, D. C., Counsel.

Duly sworn to by David A. Wright. Jurat omitted in printing.

[fol. 7] II. DEFENDANT'S OPPOSITION TO PLAINTIFF'S PETITION TO REINSTATE, REOPEN, REHEAR, AND READJUDICATE—October 15, 1936

The defendant opposes plaintiff's petition to reinstate, reopen, rehear, and readjudicate the above-entitled case upon the grounds hereinafter set forth:

1. That all claims of David A. Wright, including that docketed as 261-A, were heard, determined, and finally adjudicated by this Court on April 13, 1925 (60 C. Cls. 519; 60 C. Cls. 546).

2. That Enrolled Bill S. 713, passed by both Houses of Congress, purporting to confer special jurisdiction upon this Court, was vetoed by the President and returned to the Senate through duly recognized official channels during the interim of the Senate's temporary recess and said message of veto was received, acted upon, and referred by the said body to the Senate Committee on Claims, all within the time and in the manner prescribed by Article 1, Section 7, Clause 2, of the Constitution of the United States.

3. Or, in the alternative, if the transmission of Enrolled Bill S. 713 to the Secretary of the Senate is not construed as [fol. 8] a transmission to the Senate within the meaning of Article 1, Section 7, Clause 2, of the Constitution of the United States, then since the Senate was not in session on May 5, 1936, and within the full ten days of the submission of Enrolled Bill S. 713 to the President, the Bill failed to become a law. (See Pocket Veto Case, 66 C. Cls. 26; 279 U. S. 655, 679.)

4. That said Enrolled Bill S. 713 was not passed and enacted into law over the said veto as provided by said Constitutional provision.

5. That said Enrolled Bill S. 713, even had it been approved by the President and enacted into law, would be without valid force and effect and would be contrary to the spirit of the Constitutional provisions prohibiting encroachment by the Legislative upon the Judicial branch concerning the conduct and adjudication of a "Case at Law", the judicial discretion respecting which matters are reserved by the Constitution to be exercised by the Courts alone.

For the reasons stated the petition of the plaintiff to reinstate, reopen, rehear, and readjudicate should be denied.

Respectfully submitted, James W. Morris, Assistant Attorney General. P. M. Cox, Henry Fischer, Attorneys.

[fol. 9] III. ARGUMENT AND SUBMISSION

On January 11, 1937, the plaintiff's petition to reinstate, reopen, rehear and readjudicate was argued and submitted by Mr. James J. Lenihan, for plaintiff, and by Mr. Henry Fischer, for defendant.

IV. Order Overruling Plaintiff's Petition

It is Ordered this 8th day of February, A. D., 1937, that the plaintiff's petition to reinstate, reopen, rehear and re-adjudicate be and the same is hereby overruled.

[fol. 10] Clerk's certificate to foregoing transcript omitted in printing.

Endorsed on cover: File No. 41,479. Court of Claims. Term No. 939. David A. Wright, petitioner, vs. The United States. Petition for a writ of certiorari and exhibit thereto. Filed April 30, 1937. Term No. 939, O. T., 1936.

[fol. 11] Supreme Court of the United States

Order Allowing Certiorari—Filed June 1, 1937

The petition herein for a writ of certiorari to the Court of Claims is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.